

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

M.H., et al.,

Plaintiffs,

v.

COUNTY OF ALAMEDA, et al.,

Defendants.

Case No. 11-cv-02868-JST

**ORDER RE: TRIAL SCHEDULE,  
BIFURCATION, MOTIONS *IN LIMINE*,  
JURY QUESTIONNAIRE, AND JURY  
INSTRUCTIONS**

Re: ECF No. 210

Good cause appearing, the trial of this matter is continued to January 20, 2015, at 8:30 a.m. Trial will continue Monday through Thursday from 8:30 a.m. to 1:30 p.m. Counsel are expected to arrive at 8:00 a.m. each trial day in order to address matters required to be addressed outside the presence of the jury.

The Court will hold a final pretrial conference on January 5, 2015, from 9:30 a.m. to 4:30 p.m.. The conference will continue through January 6, 2015, if necessary. The Court will address the parties' proposed jury instructions, motions *in limine*, and any other matters regarding the conduct of trial at that time.

The Court has considered the parties' positions concerning time limits and now sets the following time limits, inclusive of all witness examination, *i.e.*, direct, cross-, re-direct, and re-cross:

Plaintiffs: 46 hours

County Defendants: 40 hours

Corizon Health and Dr. Orr: 20 hours

Nurse Sancho: 12 hours

These time limits are exclusive of voir dire, opening statements, and closing arguments. The

1 Court will set those limits later.

2 The Court has received the parties' proposed jury questionnaires. See ECF Nos. 216, 217.  
3 The parties are ordered to file, by May 2, 2014, a final jointly proposed jury questionnaire, or, in  
4 the alternative, a list of jointly proposed jury questions and separate lists of questions upon which  
5 the parties could not agree. The Court will then take the matter under submission.

6 The Corizon Defendants' motion for bifurcation of the issue of punitive damages, ECF No.  
7 210, is hereby GRANTED pursuant to Federal Rule of Civil Procedure 42(b). Whether the  
8 Plaintiffs are entitled to punitive damages (i.e., whether the Defendants are guilty of malice, fraud  
9 or oppression) will be decided in the first phase along with compensatory damages; all evidence  
10 relating to the amount of punitive damages will be offered in the second phase, if necessary.

11 In addition, upon consideration of the parties' joint letter brief concerning the applicability  
12 of the relation back doctrine and California Code of Civil Procedure § 474 to Plaintiffs'  
13 amendment of the First Amended Complaint to add claims against the Corizon Defendants and  
14 Nurse Sancho, the Court *sua sponte* bifurcates that issue from the remaining issues in the case, to  
15 be tried to the court<sup>1</sup> following completion of the liability and punitive damages phases of the trial,  
16 as set forth above. The Court will set a schedule for the separate trial of that issue upon  
17 conclusion of the jury trial.

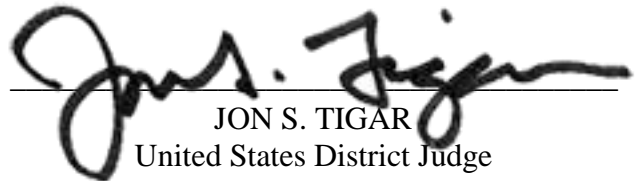
18 It is possible that consideration of the orders made here, the Court's recent order regarding  
19 the Defendants' summary judgment motions, and further negotiation between the parties may  
20 reduce or change the parties' need for *in limine* motion practice. Accordingly, the Court will  
21 terminate the pending motions *in limine*. The parties are hereby ORDERED to re-file their  
22 motions *in limine* and any other pretrial motions in omnibus form by November 21, 2014.  
23 Defendants must file a single omnibus document in which all defendants make together any  
24 motion in which each of them joins, although each party may also state separate motions within  
25 the omnibus brief. Each side shall file an omnibus response to the omnibus motions by December  
26 10, 2014. Thus, the Court anticipates the filing of a total of four omnibus documents.

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28 <sup>1</sup> Defendants proposed that the issue be tried to the Court pursuant to Federal Rule of Civil  
Procedure 52. Plaintiffs have not objected.

The Clerk shall terminate all pending motions on the Court's docket in this matter.

**IT IS SO ORDERED.**

Dated: April 9, 2014

  
JON S. TIGAR  
United States District Judge

United States District Court  
Northern District of California